IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

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CHAMBER OF COMMERCE OF THE)
UNITED STATES OF AMERICA, et al.,	
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Plaintiffs,) Civil Action No. 21-cv-00410-LKG
)
v.) Dated: October 24, 2022
)
PETER FRANCHOT, et al.,)
)
Defendants.)
)

ORDER

The Court is scheduled to hold oral arguments on the parties' dispositive motions regarding whether the pass-through prohibition contained in the State of Maryland's Digital Advertising Tax Act (the "DATA"), 2021 Md. Laws ch. 37, codified at Title 7.5 of the Tax-General Article, violates the First Amendment on November 29, 2022. *See* ECF No. 87. On October 17, 2022, the Circuit Court for Anne Arundel County issued a decision in *Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia LLC, et al. v. Comptroller of the Treasury of Maryland*, No. C-02-CV-21-000509, holding, among other things, that the DATA violates the First Amendment, because the statute is not content neutral and selectively taxes the plaintiffs in that case. *See* ECF No. 88 at 3.

On October 21, 2022, the plaintiffs in this action submitted letter correspondence requesting that this Court proceed with the scheduled oral arguments. *See generally id.* In their correspondence, plaintiffs maintain this this case is not moot, because: (1) the Circuit Court did not rule specifically on the constitutionality of the DATA's pass-through prohibition; (2) the State of Maryland has indicated its intent to appeal the Circuit Court's decision; and (3) plaintiffs remain uncertain about whether they may identify the estimated taxes paid under the DATA on an invoice or other customer statement. *Id.* at 1. And so, plaintiffs requests that the Court proceed with the scheduled oral arguments. *See id.*

In light of the foregoing, defendants shall **FILE** a status report **on or before October 31, 2022**, stating their views regarding whether the Court should proceed with the oral arguments scheduled to be held in this matter.

IT IS SO ORDERED.

s/ Lydia Kay Griggsby
LYDIA KAY GRIGGSBY
United States District Judge